

**REMARKS**

**INTRODUCTION**

In accordance with the foregoing, claim 1 has been amended, claims 30-36 have been canceled, and claim 29 has been previously cancelled. As such, no new matter is being presented, and approval and entry are respectfully requested. Therefore, claims 1-28 are pending and under consideration. Reconsideration is respectfully requested.

**ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116**

Applicant requests entry of this Rule 116 Response and Request for Reconsideration because it is believed that the amendment of claim 1 places this application into condition for allowance and should not require any further search by the Examiner. The amendment was not earlier presented because the Applicant believed in good faith that the cited prior art did not disclose the present invention as previously claimed.

The Manual of Patent Examining Procedures sets forth in §714.12 that "any amendment that would place the case either in condition for allowance or in better form for appeal may be entered." Moreover, §714.13 sets forth that "the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

**REJECTION UNDER 35 U.S.C. §102**

In the Office Action, in numbered paragraph(s), 2-3, claims 1-2 were rejected under 35 U.S.C. §102 in view of Kim et al. (U.S. Patent No. 6,405,372). This rejection is traversed and reconsideration is requested.

Initially, applicant notes that claim 1 has been amended and now recites, "the remaining program guide information is acquired according to a selectively prioritized channel search." This amendment highlights the fact that, according to the presently claimed invention, the prioritized channel search, at least initially, only searches through a selection of channels. How

that selection is determined could be based on many factors, one example being that the selection comprises those channels immediately numerically above and below the currently tuned in channel. *See the specification, page 5, line 29 – page 6, line 6.* As a result, the delay of searching through an unnecessarily large number of channels to retrieve EPG information is avoided.

Kim, on the other hand, discloses automatically searching **all the channels** to identify EPG information about each channel from auxiliary data separated by the second TS decoder 114, and to update EPG information in the memory 118. Thus, where the presently claimed invention avoids the delay of searching through an unnecessarily large number of channels, Kim fails to avoid the delay.

Therefore, applicant respectfully asserts that claim 1 patentably distinguishes over the reference to Kim and, thus, is believed to be allowable.

Regarding the rejection of claim 2, it is noted that claim 2 is dependent on claim 1 and therefore allowable for at least the reasons discussed above.

### **REJECTION UNDER 35 U.S.C. §103**

In the Office Action, in numbered paragraph(s) 4-9, claims 3-27 were rejected under 35 U.S.C. §103 in view of Cuccia and Kim, and, in the case of claims 11, 16, 17, and 24, further in view of Saitoh (U.S. Patent No. 5,444,499), and, in the case of claims 18 and 25, further in view of Magura et al. (U.S. Patent No. 6,243,142 B1). However, applicants note that the reference to Kim was commonly owned at the time of the invention of the present application. Therefore, according to 35 U.S.C. 103(c), Kim may not be used as a prior art reference. Therefore, since the references to Cuccia, Saitoh, and Magura fail to cure the deficiencies created by the absence of Kim, claims 3-27 are believed to be allowable.

### **UNMENTIONED CLAIM 28**

Applicants note that the rejection of claim 28 was not explained in the outstanding Office Action. Applicants assume this was in error but reiterate that 28 is believed to be allowable for the reasons discussed in the Response filed on March 5, 2004.

## CONCLUSION

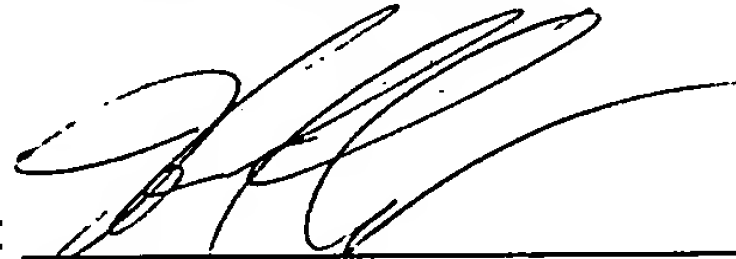
In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP



Date: August 12, 2004

By: \_\_\_\_\_  
Howard I. Levy  
Registration No. 55,378

1201 New York Avenue, N.W.  
Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501